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WEEK IN REVIEW APRIL 5 -9, 1999

HOUSE FLOOR

The House of Representatives devoted most of its time to the consideration of a proposed State-sponsored lottery. On Thursday, the House approved and sent to the Senate Joint Resolution H.3677 which proposes an amendment to the SC Constitution which removes the current prohibition on lotteries and authorizes lotteries conducted only by the State. Under the legislation, the revenues of the State-run lottery would first be used to pay operating expenses and prizes and the remaining revenues credited to a separate "Education Lottery Account." No specific percentages for use of the revenue (i.e., for administration or for prizes) are included in the language of the joint resolution. All proceeds of the "Education Lottery Account" would be used only for education as provided by the General Assembly.

The House gave second reading to Joint Resolution H.3809 which proposes to amend the SC Constitution relating to the assessment ratio on "all other personal property" so as to create a separate class of property tax classification consisting of personal motor vehicles which must be titled by a state or federal agency excluding units of manufactured housing and commercially operated aircraft and including passenger motor vehicles, recreational vehicles, pickup trucks, trailers, motorcycles, boats, and private aircraft which must be assessed for property tax at the rate of 9.75% of fair market value beginning in 2002, declining in equal annual reductions over six years to a permanent rate of 6.0% for 2007 and beyond. This proposed amendment would appear on the ballot in November 2000.

The House also gave second reading to a related piece of legislation, Joint Resolution H.3815. This resolution requires that the Constitutional Ballot Commission provide an explanation for the amendment proposed in H.3809. H.3815 requires that the explanation must read substantially as follows: *"Motor vehicles, pickup trucks, motorcycles, boats, boat motors, and private planes are valued for property tax purposes at ten and one-half percent of fair market value. The amendment would reduce that ten and one-half percent to six percent over six years. If local governments do not increase millage rates, the amendment would reduce property taxes by forty-three percent over six years on motor vehicles, pickup trucks, motorcycles, boats, boat motors, and private planes."*

The House amended and approved, H.3356 and S.620, two measures which prohibit the sale of driver's license information. The House amended, approved and sent to the Senate H.3356 which prohibits the Department of Safety from selling, providing, or otherwise furnishing a private party with the following information: personal information on height, weight, and race; social security numbers in its records; and, copies of photographs or signatures, whether digitized or not, taken for the purpose of a driver's license or personal identification card. The bill prohibits the Department of Safety from releasing any part of an identification record of a child younger than fifteen years of age to a private party. H.3356 provides that records of height, weight, race, photographs, signatures, and digitized images from a driver's license or personal identification card are not public records. The bill also prohibits a private person from using an electronically stored version of a photograph, social security number, height, weight, race, or signature of a person, if the electronically stored information was obtained from a driver's license record. The House also amended and returned to the Senate S.620, joint resolution which provides for these restrictions on the use of driver's license information.

The House did not concur in Senate amendments to H.3188 which revises speed limits on the state's roads.

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The House amended, approved, and sent to the Senate **H.3398**, a bill which provides for the awarding of attorney's fees in civil actions or administrative proceedings brought by or against the State, a political subdivision of the State, or an agency of the State. The House adopted an amendment which clarifies that the bill applies to the Administrative Law Judge Division. Under this bill, the prevailing party (unless the prevailing party is the State, a political subdivision, or an agency) may be allowed to recover reasonable attorney's fees if the court, chief procurement officer, administrative law judge, Procurement Review Panel, or other appropriate tribunal finds that: (1) the State, political subdivision, or agency acted without substantial justification in bringing or defending its claims against the prevailing party; and (2) there are no special circumstances that would make the award of attorney's fees unjust. Also under this bill, the prevailing party may petition for attorney's fees within thirty days following the later of: (1) final disposition of the case, or (2) the issuance of a final administrative decision. The petition for attorney's fees must be supported by an affidavit setting forth the basis for the request.

The House amended and sent to the Senate **H.3509**, the "Personal Financial Security Act." The bill creates the offense of financial identity fraud. Under the bill, financial identity fraud occurs when a person, without permission, (1) obtains or records identifying information about another person, or (2) accesses or attempts to access the financial resources of another person through the use of identifying information. The bill has a provision stating what the term "identifying information" includes. In a criminal proceeding, the crime is considered to have been committed in a county in which a part of the financial fraud took place, regardless of whether the defendant was ever actually in that county. As introduced, the bill provides that a person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both.

The House approved and sent to the Senate **H.3531** which provides that each office on the South Carolina Employment Security Commission is a separate office and must be assigned a numerical designation. Under this bill, each election must be for a specific seat on the Commission. The bill further provides that the term of office for the commissioners begins on July 1 of each presidential election year.

The House amended, approved and sent to the Senate **H.3477**. This bill establishes the South Carolina Silver Haired Legislature, Inc. The purpose of this organization is to: (1) identify issues, concerns, and possible solutions for problems facing South Carolina's aging population; (2) make recommendations to the Governor and members of the General Assembly; (3) arrange educational forums to explore issues related to older citizens, and; (4) promote good government for all South Carolinians. The participants must be 60 years of age or older and must be selected according to procedures adopted by the Silver Haired Legislature, Inc. in coordination with the states' network of aging programs. The organization will meet annually in the State House upon approval of the appropriate chamber.

SENATE FLOOR

THURSDAY APRIL 1

H.3188 was read for the third time and returned to the House with amendments. This bill relates to maximum speed limits on interstate highways and other roads. However, the House refused to concur in the amendments proposed by the Senate. On Wednesday, April

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7, the Senate insisted upon its amendments to H.3188 and asked for a Committee of Conference.

TUESDAY APRIL 6

H.3276, a bill pertaining to municipal charges to telecommunications providers, was read for the second time with notice of general amendments.

WEDNESDAY APRIL 7

H.375 was read for the third time and ordered sent to the House. This bill modifies the disposition of proceeds from the sale of real or personal property confiscated pursuant to the seizure of controlled substances.

THURSDAY APRIL 8

The following bills were read for the second time with notice of general amendments:

- S. 120 a bill relating to tattooing
- S. 418 a bill pertaining to subscriber charges for E-911 services

S. 37 was amended and read for the second time. This bill pertains to personal property belonging to a residential tenant who has been evicted.

The Senate amended and gave second reading to S.87, a bill relating to Rules to Show Cause in ejectment proceedings.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources, and Environmental Affairs Committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The full Education and Public Works Committee did not meet this week.

JUDICIARY

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The full Judiciary Committee did not meet this week.

On March 30, the Judiciary Committee gave a favorable report with amendment to **H.3420**. However, the Judiciary Committee's proposed amendment to **H.3420** was not available in time to be included in last week's *Legislative Update* (April 6, 1999).

As introduced, **H.3420** provides that the right and authority to sue a firearms manufacturer, trade association, or dealer on behalf of

- the State,
- its agencies and instrumentalities,
- a county,
- a municipality,
- a special purpose district, or
- any other political subdivision

in cases arising out of or resulting from the lawful design, marketing, or sale of firearms to the public is reserved to the State. However, this bill does not prohibit actions for breach of contract or warranty in connection with firearms purchased by a county, municipality, special purpose district, or other political subdivision.

As introduced, the bill provides limitations on liability in cases arising from the use of a firearm by a person other than the licensee.

The Judiciary Committee's proposed amendment rewrites the bill. The proposed amendment bars suits by any party (including the State and its political subdivisions) against a

- firearms manufacturer, trade association, or dealer
- ammunition manufacturer, trade association, or dealer

for cases arising out of or resulting from the marketing, design, or lawful distribution and sale of firearms or ammunition to the public. However, this bill does not prohibit (1) actions for breach of contract or warranty, or (2) products liability actions arising out of the malfunction or improper design of any device that results in personal injuries uncommon to the normal and intended functioning of a firearm or ammunition.

LABOR, COMMERCE AND INDUSTRY

The full Labor, Commerce and Industry Committee did not meet this week.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Medical, Military, Public and Municipal Affairs Committee did not meet this week.

WAYS AND MEANS

The full Ways and Means Committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.3883 SALE OF SWORDFISH PROHIBITED Rep. Limehouse

This bill prohibits the sale, exchange, barter in, or purchase of swordfish until the National Marine Fisheries Service declares the Atlantic coast swordfish stock fully recovered.

H. 3869 LOW-LEVEL RADIOACTIVE WASTE ASSISTANCE FUND Rep. J. Smith

This bill establishes the Low-level Radioactive Waste Assistance Fund to assist in defraying the cost of storing, transporting, and disposing of low-level radioactive waste from instate generators. The Department of Health and Environmental Control (DHEC) will administer the fund and promulgate regulations, including an allocation formula and procedures, whereby a low-level radioactive may apply for funds to help with costs associated with waste disposal. Revenue from the fund will be generated from a tax of \$450 per curie of waste deposited in this state. The first \$1.25 million of the tax must be allocated each fiscal year to the Education Finance Act. The next \$2.5 million must be credited to the governing body of Barnwell County pursuant to the U.S. District Court's order. Five percent of the remaining revenue must be credited to the Low-level Radioactive Waste Assistance Fund.

H.3824 PROPAGATING ALLIGATORS PERMITTED Rep. Witherspoon

This bill authorizes the propagating of alligators on an alligator farm for sale to other licensed dealers or to sell the parts or skins of farm-raised alligators to anyone for any purpose. Persons that desire to raise or sell alligators must apply for a license from the Department of Natural Resources (DNR). The cost for the alligator farm license is \$500. The cost for an alligator parts dealer license is \$100 annually. Retailers selling canned alligator parts and restaurants selling prepared alligator meat must also secure a license from DNR for \$5. The bill contains an exemption for persons who wish to exhibit alligators in a circus, zoo, or other show. DNR is authorized to promulgate regulations for alligator propagating and sale. The bill includes guidelines for record keeping, tagging, and shipping of alligators and provides penalties for noncompliance. A severance tax of \$1 is imposed on each alligator skin taken from an alligator in South Carolina, payable to DNR.

H.3828 TOBACCO INDENIFICATION COMMISSION and FUND Rep.

Witherspoon

This bill establishes the South Carolina Tobacco Indemnification and Community Revitalization Commission and Fund to distribute monies received by the State pursuant to the Master Settlement Agreement with the tobacco product manufacturers. The Commission's duty is to indemnify farmers from the adverse effects of the Master Settlement Agreement and to revitalize tobacco dependent communities. The bill also creates the South Carolina Tobacco Settlement Foundation to distribute monies from the Master Settlement Agreement, including using funds to assist in financing efforts to restrict the use of tobacco products by minors.

EDUCATION AND PUBLIC WORKS

**H.3831 COMPENSATION FOR REMOVAL OF OUTDOOR
ADVERTISING SIGNS Rep. Townsend**

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Current law provides that compensation paid by the Department of Transportation for the removal of outdoor advertising signs may be paid only for the taking from the owner of: 1) a sign of all right, title, leasehold, and interest in it; 2) the real property on which the sign is located of the right to erect and maintain a sign on it. **H.3831** deletes this provision and provides that "just compensation" is considered to be fair market value of the particular interest of each party having an interest in the location of the sign which shall be determined through appraisal methods used to determine just compensation under the Eminent Domain Procedure Act. The bill also provides for the manner in which compensation must be paid prior to the removal of these signs, and provides that no political subdivision of this state may require the removal of an existing sign for reasons other than traffic safety or proximity to specified locations.

The bill also adds a section to the SC Code of Laws providing that if a political subdivision enacts a zoning plan or other specified ordinance relating to the size, lighting, spacing, or similar requirements in regard to signs which are subject to its jurisdiction, the zoning plan or ordinance must provide for a public notice and comment period, notice to each sign owner or leaseholder, and a period of at least one hundred twenty days must elapse between the date of the public hearing and third reading of the zoning plan or ordinance.

JUDICIARY

H.3826 CIGARETTE SALES Rep. Battle

Under this bill, it is illegal to sell or hold for sale a package of cigarettes that violates federal law. If a person sells or holds for sale illegal cigarette packages, the bill authorizes (1) the Attorney General to seize and destroy the illegal cigarette packages, and (2) the Department of Revenue to revoke the person's license to sell tobacco. The bill specifically provides that selling cigarettes in illegal packages is an unfair trade practice. Penalties are established for failure to comply.

H.3832 DEFAULT ON A STUDENT LOAN Rep. Townsend

If an individual defaults on certain student loan agreements, this bill authorizes garnishment of the individual's wages. The bill outlines debtors' rights in the garnishment process. The bill also outlines appeal procedures available to debtors as well as lists the grounds for contesting garnishment. Employer retaliation against an employee whose wages are garnished is prohibited under the bill.

S.70 PROPERTY EXEMPT FROM ATTACHMENT, LEVY, AND SALE Sen. Hayes

This bill exempts individual retirement accounts, individual retirement annuities, and individual retirement trusts from attachment, levy, and sale under any mesne or final process issued by any court or bankruptcy proceeding. A debtor may receive individual retirement accounts, individual retirement annuities, and individual retirement trusts to the extent reasonably necessary for the support of the debtor and his or her dependents. However, a claimed exemption may be reduced or eliminated by the amount of a fraudulent conveyance into the individual retirement account or other plan.

S.660 ABUSE, NEGLECT, EXPLOITATION OF VULNERABLE ADULTS Sen. Judiciary Committee

This bill provides that any person who

- knowingly and wilfully abuses, neglects, or exploits a vulnerable adult is guilty of a felony (Class F)

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- knowingly and wilfully abuses or neglects a vulnerable adult resulting in great bodily injury is guilty of a felony (Class D)
- knowingly and wilfully abuses or neglects a vulnerable adult resulting in death is guilty of a felony (Class A)

The bill provides that a person (1) who is required to make a report, and (2) has actual knowledge that abuse, neglect, or exploitation has occurred, and (3) who knowingly and wilfully fails to report the abuse, neglect, or exploitation is guilty of a misdemeanor. The bill further provides that the person may be subject to disciplinary action by the appropriate licensing board. Penalties are established for failure to comply.

This bill provides that a person who wilfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to *South Carolina Code of Laws* Chapter 35 (Adult Protection) of Title 43 (Social Services) upon conviction is guilty of a misdemeanor. Penalties are established for failure to comply.

H.3849 DEPUTIES Rep. F. Smith

Under this bill, a deputy may be sued in his or her individual capacity for conduct or neglect of duty that violates clearly established statutory or constitutional rights.

H.3854 AMERICAN INDIAN HISTORY MONUMENT Rep. Cooper

This joint resolution provides for an American Indian History Monument to be erected on the State House grounds. The joint resolution creates a commission to select the design and location of the monument; the joint resolution also provides for the commission's membership and dissolution.

H.3857 EXCEPTIONS TO CONFIDENTIALITY OF JUVENILE RECORDS Rep. Seithel

If a student has been convicted of or adjudicated of the offense of torturing or killing an animal, this bill requires (1) the appropriate agency to report the student and the adjudication to school administration, and (2) the judge to order the minor to undergo a psychological evaluation. This bill increases the penalties for ill treatment of animals.

H.3858 TRANSFER OF ASSETS, PROPERTIES, AND RESPONSIBILITIES OF A PUBLIC SERVICE DISTRICT FOR THE DELIVERY OF CLINICAL MEDICAL SERVICES Rep. Battle

This bill amends *South Carolina Code of Laws* §4-9-82, relating to the transfer of the assets, properties, and responsibilities of a public service district for the delivery of clinical medical services. This bill deletes the requirements that (1) the services must be clinical, and (2) the transfer must be to another political subdivision or an appropriate health care provider in the district.

Currently, a transfer is not complete until the question of the transfer has been submitted to and approved by a favorable referendum vote of the majority of the qualified electors of the district voting in the referendum. The bill allows the referendum vote to be conducted either as a special referendum or at the same time as a general election. The bill further provides that a referendum is not necessary when the transfer of the assets, properties, and responsibilities is made to certain entities.

The bill authorizes a hospital public service district to dissolve upon the completion of the transfer and assumption of the responsibilities and obligations of the district.

H.3862 WAITING PERIOD FOR ISSUANCE OF MARRIAGE LICENSES Rep.

Hayes

This bill deletes the mandatory twenty-four hour waiting period between the receipt of the application for a marriage license and the issuance of the license.

H.3863 DEFINITION OF TERMS "PERSON" AND "ANOTHER" Rep. Campsen

This bill amends *South Carolina Code of Laws* Chapter 3 (Offenses Against the Person) of Title 16 (Crimes and Offenses) relating to all offenses arising out of the unlawful killing or battery of any "person" or "another." Under this bill, the terms "person" and "another" include an unborn child at every stage of gestation in utero from conception until live birth. The bill provides exceptions for lawful medical procedures and lawfully prescribed medication.

This bill amends *South Carolina Code of Laws* Chapter 5 (Uniform Act Regulating Traffic) of Title 56 (Motor Vehicles) relating to all offenses arising out of the death or injury of any "person." Under this bill, the term "person" includes an unborn child at every stage of gestation in utero from conception until live birth.

This bill amends *South Carolina Code of Laws* Chapter 21 (Watercraft and Equipment Operation) of Title 56 (Motor Vehicles) relating to all offenses arising out of the death or injury of any "person." Under this bill, the term "person" includes an unborn child at every stage of gestation in utero from conception until live birth.

H.3867 INMATE HEALTH CARE Rep. J. Brown

This bill provides for an inmate health care ombudsman to ensure proper health care service to inmates, and it establishes a Citizens Prison Health Care Advisory Board.

H.3870 "SOUTH CAROLINA NOTORIETY FOR PROFIT ACT" Rep. J. Smith

This bill allows eligible persons (victims and their families) or the State Office of Victim Assistance to recover profits obtained or generated from the commission of a crime. The bill also repeals *South Carolina Code of Laws* 15-59-40 through 15-59-80, relating to moneys paid into the court.

H.3873 MEETING OF THE GENERAL ASSEMBLY Rep. D. Smith

Under this bill, the General Assembly would meet on Tuesday and Wednesday of each week in statewide session and on Thursday and Friday of the each week in local session.

H.3874 REGULATIONS REVIEW PANEL Rep. D. Smith

This bill establishes the Regulations Review Panel. Under this bill, the panel would determine the need and reasonableness of each regulation before the regulation is submitted to the General Assembly for review. The bill outlines the panel's membership, authority, and duties. When agencies submit a regulation for General Assembly Review, this bill requires the agencies to also submit the Review Panel Determination Report on Need and Reasonableness of the regulation. Under certain circumstances, the bill authorizes the panel to provide awards to citizens who recommend review of regulations that are unnecessary or unreasonable. The bill requires agencies to submit all regulations in effect on July 1, 1999 to the General Assembly for review before July 1, 2001 in order for the regulations to remain in effect.

S.375 DISPOSITION OF FORFEITED PROPERTY Sen. Anderson

This bill modifies the disposition of proceeds from the sale of real or personal property confiscated pursuant to the seizure of controlled substances. If a law enforcement agency receives previously unknown information from a private citizen leading to an arrest, conviction, and forfeiture of property, under this bill the private citizen is entitled to receive 25% of the forfeited property. If there is a dispute as to whether the private citizen is entitled

to the proceeds, the bill requires a judge to determine the issue in an in camera proceeding, keeping the individual's identity confidential. Individuals under documented investigation for any criminal activity do not qualify to receive any proceeds from the sale of confiscated property.

H.3882 HOMICIDE BY CHILD ABUSE Rep. Jennings

This bill deletes references to *South Carolina Code of Laws* §20-7-490, the definitional section of the Children's Code. Under this bill, the term "child abuse or neglect" means an act or omission by a person resulting in a child's death or harm to a child's physical health or welfare. The term "harm to a child's physical health or welfare" includes the following:

- inflicts or allows to be inflicted personal injury (including injuries from excessive punishment)
- fails to provide a child with food, clothing, shelter, or health care which causes a physical injury or results in death, or
- abandonment of a child resulting in death.

**H.3886 WORTHLESS CHECK UNIT OF THE CIRCUIT SOLICITOR'S OFFICE
Rep. D. Smith**

This bill authorizes circuit solicitors to establish a worthless check unit for the purpose of processing worthless checks. The bill outlines criteria used in determining whether or not a complaint may be processed by the worthless check unit. If a victim voluntarily withdraws the complaint, there is a thirty-dollar service charge for processing the complaint. The bill authorizes deferred prosecution for issuing a fraudulent check. However, the deferred prosecution is conditioned upon voluntary surrender, the payment of fees, and restitution. The bill also provides for the distribution of monies collected by the worthless check unit.

H.3889 "TIMESHARE LIEN FORECLOSURE ACT" Rep. Edge

The bill gives statutory recognition to the right of persons to privately contract for a "power of sale" as their remedy in lieu of a judicial foreclosure of liens on timeshare estates. Under the bill, "power of sale" means

- an express agreement in a mortgage identifying the mortgagor, mortgagee, and the trustee or
- an express written provision in a timeshare estate identifying the managing entity and the trustee which authorizes the trustee to sell the timeshare estate without judicial action at a foreclosure sale regularly conducted and duly held in accordance to the provisions of the article.

The bill specifically limits the application of such nonjudicial foreclosure proceedings to timeshare estates only.

**H.3891 TIMMONSVILLE (FLORENCE COUNTY) MAGISTERIAL DISTRICT
Rep. McKay**

This bill provides that all lanes of that portion of U.S. Highway 76 in Florence County lying between the intersection of Road 107 and Road 106 is deemed within the Timmonsville Magisterial District.

**H.3892 DETERMINATION OF A PERSON'S CAPACITY TO STAND TRIAL
Rep. D. Smith**

This bill authorizes the prosecuting officer to designate a third examiner to participate in the determination as to whether a person is fit to stand trial. The bill allows an examiner designated by the prosecution to also conduct examinations as to the issues of insanity or criminal responsibility.

H.3901 “YEAR 2000 CITIZENS’ PROTECTION ACT” Rep. Davenport

This bill establishes an affirmative defense to any claim or action brought against an individual, if the individual's default, failure to pay, breach, omission, or other violation that is the basis of the claim was in whole or in part caused by a year 2000 electronic computing device failure. This bill prohibits a claim from being reasserted for thirty days, and the bill tolls statute of limitations for forty-five days. The bill provides that the underlying obligation of the individual is not extinguished, discharged, or otherwise affected.

LABOR, COMMERCE AND INDUSTRY

H.3830 SALE OF OPTIONAL INSURANCE WITH CAR RENTALS Rep. Cato

This bill provides that a motor vehicle rental company and its agents and employees may, incidental to a rental transaction, sell and collect premiums for optional travel or motor vehicle-related insurance coverages for rented vehicles without being considered insurance agents under the law. Since these individuals would not be considered insurance agents they would not have to comply with the licensure, continuing education, and other requirements which pertain to insurance agents.

S.526 DELINQUENT PAYMENTS TO THE EMPLOYMENT SECURITY COMMISSION Sen. Land

This bill revises the means by which the Employment Security Commission may collect delinquent payments so as to augment the Commission's powers and give it a more direct role. Under current law, in cases where an employer defaults on payments to the Employment Security Commission, the Commission must act through the tax collector or sheriff of the appropriate county in order to sell the real and personal property of the employer to pay the debt owed. Under the bill, such activities may be carried out by an authorized representative of the Commission. Under the bill, the Commission or its authorized representative files with the county clerk of court a copy of the execution, without acting through the sheriff or tax collector. The legislation also confers upon the Employment Security Commission the powers which the Department of Revenue utilizes for the collection of unpaid income taxes. The Commission is directed to promulgate regulations to allow for these provisions. The bill also requires the Commission to report to the Senate Finance Committee and House Ways and Means Committee by October 1 each year on the amount that is in the unemployment trust fund and make an assessment of its funding level.

H.3855 REGULATION OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS Rep. Bailey

This bill conforms the laws regulating professional engineers and land surveyors to the uniform statutory organizational framework provided for boards under the administration of the Department of Labor, Licensing and Regulation. The bill makes various other revisions to the statutes regulating professional engineers and land surveyors, including authorizing the Board of Professional Engineers and Land Surveyors to regulate cross-border engineering.

H.3865 CREDIT UNIONS Rep. Cato

This bill revises the requirements which specify who is eligible to form a credit unit, so as to provide that the ten or more residents of legal age may share one or more common bond (rather than a common bond, as currently provided) of the specified variety to be eligible to apply for a credit union charter. The bill makes various other revisions to provisions relating to credit union membership so as to accommodate the sharing of one or more common

bond. The bill also revises a credit union's authority to make loans secured by real estate by adding vacation homes to the list of real estate collateral which may be used in these loans.

H.3884 LIMITATIONS ON CONSUMER CREDIT TRANSACTIONS Rep. Neal

This bill provides that a consumer creditor may not impose total charges which are greater than thirty-six percent of all sums advanced or contemplated by the parties. This limitation on charges applies to: a creditor making a consumer credit sale; a lessor in a consumer rental-purchase agreement; a lessor in a consumer lease other than a rental-purchase agreement; a lender of consumer loans, including a supervised lender and a restricted lender; a person licensed to engage in check-cashing services; a person licensed to engage in deferred presentment services; a pawnbroker; and, a person in the business of lending money on the security of a consumer motor vehicle certificate of title. In addition to other penalties, an individual who violates the limitation on charges is guilty of a misdemeanor and must be fined not more than one thousand dollars and/or imprisoned for not more than one year.

H.3887 PAYMENT OF WAGES Rep. Cato

This bill makes various revisions to laws regulating the way in which the state's employers must provide wages to employees. The bill revises the definition of "wages" so as to include bonus and expense payments. The bill revises provisions pertaining to payment of wages in cases where an employer separates an employee, so as to provide that wages due the employee are not to be paid within forty-eight hours of the time of separation, as under current law, but, rather on the next regular payday. If the payday cannot be established, the employer shall pay all wages due within seven calendar days from the date of separation. The bill provides that an employee's complaint to the Director of the Department of Labor, Licensing and Regulation regarding violations of payment of wages laws need not be written. The bill eliminates a provision which charges the Director of the Department of Labor, Licensing and Regulation with promulgating regulations establishing a procedure for administrative review of civil penalties which are assessed employers for violations of payment of wages laws. Instead, the bill provides that an administrative review of any civil penalty assessed by the Director must be made to the administrative law judge within thirty days of the penalty being assessed. In investigations of employer misconduct, the bill authorizes inspectors of the Department of Labor, Licensing and Regulation to inspect, investigate, reproduce, or photograph any document, and not simply the time and payroll records specified under current law. The legislation also provides that no employer may discharge or demote an employee because the employee has instituted, in good faith, an investigation of employer violation of payment of wages laws, or because the employee has or is about to testify at such a proceeding. An employer who takes such adverse action against an employee in violation of the provision is liable in a civil action for lost wages suffered by the employee, and an employee is entitled to be reinstated to his former position. An employer who violates the provision must be assessed a civil penalty of not more than one hundred dollars for each violation. The burden of proof is upon the employee, and a one year statute of limitations is placed upon actions. The bill provides a list of employee actions such as willful and habitual tardiness, embezzlement, and malingering for which an employer may dismiss or demote an employee without running afoul of the provisions regarding employee dismissal and demotion.

H.3888 COMMISSIONERS OF MUNICIPAL AND REGIONAL HOUSING AUTHORITIES Rep. Cato

This bill revises the manner of selection and conditions of service for commissioners of Municipal Housing Authorities and Regional Housing Authorities. With regard to Municipal Housing Authorities, the bill provides that no less than five nor more than seven persons are to be selected to serve as commissioners for an Authority. The bill provides that one of

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these commissioners must be a person directly assisted by the Authority. With regard to the commissioner who is directly assisted by the Authority, the bill provides for the terms of his office, conditions of service, the matters which disqualify him from voting, and for conditions under which he is removed from office. With regard to commissioners of Regional Housing Authorities, the bill provides that if the area of operation for such an authority consists of an even number of counties, the commissioners of the authority appointed by the Senators of such counties shall appoint not less than one nor more than three persons as commissioners, rather than appointing one additional commissioner. At least one of the commissioners appointed under these circumstances shall be a person who is directly assisted by the Authority. The bill provides for the term of office and conditions of service for the directly-assisted commissioner and specifies the manner in which he is to be removed from office. Under the bill, the directly-assisted commissioner must remain an assisted resident in order to continue to serve on the Board of Commissioners. If the individual vacates or is evicted from the assisted housing unit, he is, under the bill, automatically removed from the board without opportunity to contest the removal or be heard on the matter.

H.3895 FAIR PAY ACT OF 1999 Rep. Moody-Lawrence

This bill enacts the "Fair Pay Act of 1999" which makes it unlawful for an employer who employs three or more persons to discriminate among employees on the basis of sex, race, or national origin by paying wages at different rates for equivalent jobs. The legislation establishes record keeping requirements which employers use to demonstrate compliance. The bill provides that an employer may not take adverse action against an employee who opposes employment practices which violate the provisions of the act. The bill establishes a mechanism for providing relief to employees who have been discriminated against in violation of the act.

H.3902 COMPETITIVE POWER ACT OF 1999 Rep. Cato

This bill enacts the "Competitive Power Act of 1999" which provides that, no later than six years after the act becomes effective, the state's electric utility industry must be restructured into a competitive market. To that end, the bill requires the Public Service Commission to adopt, no later than six months after the effective date of the act, a plan for restructuring the electric utility industry in a way which will allow all retail customers to choose the provider of their electric generation services within the required six-year framework. No later than six months after the effective date of the act, each incumbent electric utility shall file a utility restructuring plan with the Public Service Commission which provides for customer choice for all residential customers. Under the bill, all customers must be permitted to choose their providers of electrical generation services. This may be achieved by: (1) a customer negotiating a bilateral contract with a generator of electricity; (2) a customer choosing to receive generation and other energy services from a market aggregator which may generate electricity directly, buy and sell electricity, or enter into financial contracts for electrical generation resources. Market aggregators may be brokers, cooperatives, buying clubs, municipalities, or other entities which operate through power pools or direct contracts; or (3) a customer who has not chosen an alternative source must be serviced by a default provider established by the Public Service Commission. All electricity suppliers must be approved and certified by the Commission. The Commission plan for restructuring must require the incumbent utilities to "unbundle," that is, separate financially and operationally the services of generation, transmission and distribution. The billing process must allow the customer to recognize the separate charges. Under the legislation, the local utility is relieved of its traditional obligation to serve, but still has an obligation to connect all customers within its service territory on nondiscriminatory terms and conditions. The right of eminent domain may not be used to limit competition. The subsidies for environmental, universal service, energy conservation, and other mandated programs must be separated from electric rates,

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and the Commission must submit to the General Assembly a report on recommended legislative action. The legislation provides for a mechanism by which existing utilities are to recover stranded costs, that is, the generation-related assets purchased by a regulated utility to serve regulated customers that will not be recoverable in a competitive marketplace. Under the bill, utilities may file recovery plans with the Commission and may be reimbursed through a stranded cost recovery charge which must be a fixed, monthly access charge allocated to all customers. The Commission shall promulgate regulations that ensure reliable and safe electric service under the reorganized market. The bill also establishes, the Electricity Competition Committee, a fourteen-member legislative oversight committee on electrical restructuring, with seven members drawn from each of the two houses of the General Assembly. The Committee is charged with assisting the Public Service Commission in the restructuring of the retail electrical market, assessing the transition, determining whether any electric utility receives an unreasonable advantage or disadvantage in the course of the restructuring, and recommending any necessary legislation.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

S.333 *MASSAGE/BODYWORK THERAPISTS* Sen. Seltzer

This bill exempts massage/bodywork therapists with a Certificate of Massage issued before January 1, 1974 from continuing education requirements.

H.3903 *LIFEGUARDS ON PUBLIC BEACHES* Rep. Edge

This bill authorizes municipalities to provide lifeguards and other related safety services along the public beaches. A municipality may contract with private beach safety companies to provide safety services.

H.3900 *GROUP HOMES AND COMMUNITY CENTERS* Rep. Witherspoon

This bill prohibits a state agency from granting a license to any public or private group home or community residential care facility proposed to be located in an area not subject to zoning if the local governing body objects. The local governing body may object by notifying the entity by registered mail within 30 days of holding a public meeting. An entity receiving an objection notice may request reconsideration hearing before the local governing body.

WAYS AND MEANS

S.509 *ERRORS IN RECORDS OF STATE RETIREMENT SYSTEM* Sen.

Drummond

This bill requires the State Retirement System to correct its records relating to a member upon written certification (from the employer) of the error and upon the employer's showing correction of its records. An employer's request to correct a member's record must be made within two years of the commission of the error by the employer.

H.3827 *CREDITED SERVICE FOR SC RETIREMENT SYSTEM* Rep. W. McLeod

This bill provides that service in the selected reserve components of the Armed Forces of the United States may be established for purposes of credited service in the SC Retirement System, the retirement system for members of the General Assembly, and the Police Officers Retirement System. The bill also provides requirements for establishing such service.

H.3833 *ELECTRONIC COLLECTION OF REVENUES* Rep. Robinson

This bill provides for electronic collection of revenues by a state agency pursuant to a contract negotiated and entered into by the State Treasurer on behalf of the agency. The bill provides that these electronic payments may only be accepted in the course of an electronic commerce transaction, in which the business transaction is conducted by means of the Internet, interactive voice response or other fully electronic means. The bill authorizes the agency collecting revenues electronically to withhold negotiated processing fees for payment to service providers from the revenues collected.

H.3834 FISCAL IMPACT STATEMENTS, TAXATION, RETAIL LICENSING, etc. Rep. Robinson

This bill revises current law regarding fiscal impact statements for proposed legislation affecting counties or municipalities, by requiring the acquisition of a fiscal impact statement from the "Board of Economic Advisors" rather than from the "Department of Revenue" as is currently required. The bill amends current law regarding income tax credit for corporate headquarters, by providing for determining the *per capita* income for purposes of calculating additional tax credit for creation of new headquarters by using "the most recent *per capita* income data available at the end of the taxable year the jobs are filled." Current law makes this determination by using as a basis *per capita* income "at the time the jobs are filled." The bill amends current law regarding retail license requirements by deleting the requirement that a festival be listed as a special event with the Department of Parks, Recreation, and Tourism. The bill also amends current law regarding the homestead exemption by providing that the Board of Economic Advisors, instead of the Department of Revenue, estimate the total school tax revenue loss from the exemption. The bill amends current law regarding time limitations for assessment of taxes by increasing from thirty to ninety the number of days a corporation has to file a claim for refund after an adjustment to its taxable income is made by the Internal Revenue Service. The bill also updates the Federal Code through December 31, 1998 and makes other technical, conforming, and clarifying amendments.

H.3835 COLLECTION AND ENFORCEMENT OF TAXES Rep. Robinson

This bill makes numerous technical and clarifying changes regarding current tax law. The bill also amends current law regarding collection and enforcement of taxes levied by the Department of Revenue by separating civil and criminal penalties in the enforcement statutes. Currently, these penalties are included in the same section. The bill amends current law regarding projects paying a fee-in-lieu-of property taxes by defining "replacement property" as "replacing the oldest property in the project subject to the fee, whether real or personal, which is disposed of in the same property tax year as the replacement property is placed in service." The bill also provides that the Department of Revenue officers and employees may turn in as receipt for payments only those documents and reports as required by rules adopted and regulations promulgated by the Director of the Department. The bill clarifies the "innocent spouse" provisions in the SC Code of Laws to changes made by the federal government, but the bill does not change current treatment of innocent spouses. The bill provides a clarification of what *per capita* income tax data shall be used for purposes of the classification of the counties for purposes of the jobs tax credit. The bill also clarifies the designations of the counties and clarifies the pass-through provisions of the jobs tax credit. The bill clarifies the *per capita* income data to be used in the definition of "qualifying service related facility" in the jobs tax credit. The bill also amends the SC Code to provide that individuals who are using the retirement income deduction may use this figure in determining whether or not a return is actually required. The bill also adds language to the SC Code providing that the SC Department of Revenue is not subject to provisions of the South Carolina Solicitation of Charitable Funds Act as contained in Chapter 56, Title 33 of the SC Code. The bill also clarifies the proposed assessment of liability which may be issued by the Department of Revenue if a person fails to file or files a false return on admissions tax. The bill also clarifies current language in the SC Code providing that

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liquefied petroleum gas is included in the sales tax exemption for sales of 20 gallons or less by retailers for the use of residential heating. The bill also deletes language in the SC Code which eliminates "other penalties" related to underpayment of declarations of estimated tax. The bill also clarifies that taxpayer names and addresses may be disclosed to the SC Retirement System in relation to the disposition of inactive accounts. The bill also adds the US Department of Education to the definition of "claimant agency" for purposes of the Debt Setoff Act. The bill clarifies the definition of "debtor" by striking the words "an individual" and inserting the words "a person," which results in corporations being included in that definition.

H.3836 LOCAL TAXES Rep. Robinson

This bill makes numerous technical amendments, and makes consistent the language in the special sales tax provisions related to correction of errors, implementation dates, and distribution of funds. Proposed changes include: Amending the Local Capital Project Sales Tax Statute date for certification of referendum results; Amending the Local Capital Project Sales Tax statute by deleting the requirement for retailers to break out sales by city; Amending the Local Capital Project Sales Tax Statute by providing that allocations made as a result of city or county coding errors must be corrected prospectively; Amending the Local Capital Project Sales Tax statute by providing that the Department of Revenue shall remit to the State Treasurer any unidentified funds collected, which cannot be identified to any specific county; Amending the Local Transportation Tax Statute by changing the certification date of referendum results, changing the effective date after the referendum, and providing that allocations made as a result of city or county coding errors must be corrected prospectively; Amending the Local Transportation Tax Statute by providing for the Department of Revenue to remit to the State Treasurer unidentified collected funds which cannot be identified to a specific county, and providing for these funds to be distributed back to the local governments on a proportional basis; Amending the Local School District Tax by making a technical change and by also providing that allocations made as a result of city or county code errors must be corrected prospectively and must be distributed back to the local governments on a proportional basis; Providing that the Department of Revenue may expend funds resulting from any fees charged and retained and may carry these funds forward from one fiscal year to the next; Allowing disclosure of documentation concerning any claims or uncollected taxes or fees, and allowing disclosure of this information to the taxpayer's attorney.

H.3850 TAXATION Rep. McKay

This bill repeals current sections of law relating to appeals of property tax determinations and relating to the county collection of *ad valorem* taxes. The bill adds provisions to the SC Code to: allow (by county ordinance) installment payments of *ad valorem* real property taxes; allow (by ordinance) a discount in taxes on real property paid in advance of the due date; provide that a county treasurer may attend at a safe and convenient place for the purpose of collecting taxes, and requiring that he shall give specified notice of his attendance; provide that taxes are payable in certain specified funds only, and that jury certificates and *per diem* of witnesses in the circuit court, all county claims which have been approved, and certificates issued by the governing body of the county are receivable for taxes, not including school taxes, due the county which the services were rendered or the claims approved. The bill also amends current law regarding joint industrial or business parks by providing that the land area making up the park and all property having a *situs* in the park are exempt from *ad valorem* taxation. The bill provides that the owners or lessees of property situated in the park shall pay an amount equivalent to the property taxes or other fee-in-lieu-of payments that would have been due and payable except for this exemption. The bill also provides an exemption from *ad valorem* taxation for municipal governing bodies exempt by ordinance from municipal *ad valorem* taxation for not more than five years, all new manufacturing establishments located in the municipality after a specified date, and all additions to the

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existing manufacturing establishments, including additional machinery and equipment, located in the municipality costing \$50,000 or more made after a specified date. The bill provides that exemptions from municipal taxation granted pursuant to this provision do not result in a refund of taxes.

H.3851 TAXATION Rep. McKay

This bill clarifies procedures that would take place if property subject to property tax is damaged. The bill expands eligible forces to include lightning strikes, earthquakes, hurricanes, tornadoes, floods, or fire. The bill also clarifies provisions for penalties for delinquent tax and for application of interest.

H.3852 TAXATION Rep. McKay

This bill allows the residential assessment for property which either has been or may become non-residential property. The bill specifies December 31 of the previous year as the date to determine the assessment. The bill eliminates proration of property when residential property becomes non-residential property.

H.3853 PRORATION OF TAXES Rep. McKay

This bill amends current law regarding proration of taxes upon the transfer of personal property required to be titled by a state or federal agency by limiting its application to watercraft and aircraft titled, registered, or licensed by an agency. The bill removes motor carriers from these proration provisions. The bill also provides for filing of a proration form and for determining appropriate millage.

H.3866 TWENTY-FIVE YEAR RETIREMENT Rep. W. McLeod

This bill reduces from thirty to twenty-five the years of creditable service required to retire under the SC Retirement System at any age without penalty. The bill requires the State Budget and Control Board to increase employer and employee contributions to offset the cost of this reduction, with not less than seventeen percent of the total increase to be paid by employers.

H.3868 AUDIT OF ENTITIES WHICH LEVY PROPERTY TAXES Rep. D. Smith

This bill provides for an annual independent audit of any entity authorized by law to levy property taxes. The bill provides standards for such audits and requires public access to the audit reports.

H.3871 VIDEO POKER Rep. Sandifer

Part I of this bill provides for a November 1999 statewide referendum - to be partially paid for by a license tax surcharge on video poker machines - which would ask voters if they wish to keep video poker legal. The bill provides that if a majority votes "no," video poker gambling will be illegal. Part II of this bill provides for making video poker illegal should the "no" votes prevail.

H.3875 STATE RETIREMENT SYSTEMS Rep. Robinson

This bill prohibits any provision of permanent law affecting the various state retirement systems from being included in the state annual general appropriations act or any supplemental appropriations act or joint resolution.

H.3885 STATE RETIREMENT Rep. J. Smith

This bill reduces from thirty to twenty-eight the years of creditable service required to retire at any age without penalty from the SC Retirement System. The bill also revises current law regarding early retirement options, election of a benefit on the inservice death of a member, and amounts due estates of deceased members under the group life insurance plan so as to provide that the election of a member with twenty-five years credited service to buy sufficient

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credit for service retirement applies to the SC Retirement System. The bill also amends current law regarding the annual cost of living adjustment for retirees and beneficiaries under the SC Retirement System and the SC Police Officers' Retirement System and the method of calculating the adjustment, so as to require the payment of amounts up to one percent calculated under the adjustment formula. The bill also increases the employer contribution rate to the SC Retirement System by one and one-half percent.

H.3890 ELIGIBILITY FOR SC POLICE OFFICERS' RETIREMENT SYSTEM Rep. D. Smith

This bill allows probate judges, assistant solicitors, other specified personnel in solicitors' offices, and employees of the SC Commission on Prosecution Coordination to elect to participate in the SC Police Officers' Retirement System (or they may elect to remain under regular state retirement).

H.3893 MEDICAL UNIVERSITY HOSPITAL(S) Rep. Keegan

This bill amends current law regarding organization and powers of the Board of Trustees of the Medical University of South Carolina ("the Board"). The bill provides that the Board shall constitute the "Medical University Hospital Authority" ("the Authority") for the management and operation of the Medical University hospitals and clinics in order to provide a high level of management and operational flexibility to the authority and to remove the hospitals and clinics from central state program regulation of procurement, real property, and human resources. The bill sets forth duties and powers of the Board (as "the Authority") and exempts employees of the hospitals and clinics from State Budget and Control Board personnel administration, from the state employee Grievance Act, and from the State Procurement Code.

H.3894 CREDITED SERVICE FOR JUDGES AND SOLICITORS' RETIREMENT Rep. D. Smith

This bill conforms the vesting requirements for transferring credited service to the SC Retirement System for a judge or solicitor who on termination does not qualify for a benefit under the judicial system from twelve years to the current requirement for vesting under the judicial retirement system of ten years for judges and eight years for solicitors.

H.3904 ENDOWMENT FUNDS OF STATE-SUPPORTED INSTITUTIONS OF HIGHER LEARNING Rep. Keegan

This bill is implementing legislation for the amendment to Article X, Section 11 of the SC Constitution to be ratified by the General Assembly authorizing the investment and reinvestment of endowment funds of state-supported institutions of higher learning. The bill provides for fiduciary duties, investment plans, and responsibilities; provides for the use of a specified annual plan in determining each institution's investment plan; designates the board of trustees of each institution as trustee for the funds held by the State Treasurer, and the State Treasurer as the agent of each trustee for the purpose of carrying out each institution's investment plan; provides for trustees' duties, powers, investment considerations, and liability; provides for periodic reports from the State Treasurer to the respective Boards of Trustees, and authorizes the State Treasurer to invest the funds as directed by the trustees of each institution; provides for Freedom of Information Act exemptions for certain records and executive sessions, under certain conditions.

H.3905 PROPERTY TAX ASSESSMENT Rep. Koon

This joint resolution proposes an amendment to the SC Constitution (to be presented to the voters at the next general election for representatives) providing that all motor vehicles which must be titled by a state or federal agency including passenger motor vehicles, recreational vehicles, pickup trucks, trailers, motorcycles, boats, and private aircraft, but excluding units

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of manufactured housing and commercially operated aircraft, shall be exempt from *ad valorem* property taxation by having a zero assessment ratio beginning on and after January 1, 2001. The proposed amendment also provides that the revenue lost by counties, municipalities, and other political subdivisions as a result of the exemption shall be replaced by a statewide sales tax in the manner the General Assembly provides by law.

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (www.lpittr.state.sc.us) and click on the "Quick Find Guide." On the next screen, click on "Legislative Updates." This will list all of the *Legislative Updates* by date. Click on the date you need.

SPECIAL NOTE: A cumulative index to the weekly issues of the *Legislative Update* has been added to the *Legislative Update* page on the Worldwide Web. Bills are listed in numerical order in this index. Each bill number is followed by a list of hypertext links (in chronological order) to every reference to that bill in any issue of the *Legislative Update* during the current session, 1999-2000. This is an easy way (just click on the links) to find summaries of bills introduced into the House and to follow the progress of a bill through House committees and on the floors of the House and Senate.